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First Named Inventor
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Group Art Unit
1761

Examiner Name
Paden, Carolyn

Attorney Docket Number
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ENCLOSURES (check all that apply)

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O'Connell Law Office
Application No. 09/687,045

PATENT
File Reference: RAR00P



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Ram Krishna Rastogi } GAU: 1761
Serial No.: 09/687,045 } Examiner: Paden, Carolyn A.
Filed: 10/13/2000 }
Title: PRODUCTS OF AND METHOD FOR }
FORMING LARGER SHRIMP, }
SEAFOOD, MEAT, AND OTHER }
PRODUCTS FROM PLURAL SMALLER }
PRODUCTS }

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RESPONSE

In response to the initial Detailed Action in this matter, the Applicant first thanks the Office for the careful consideration given the present application. With the ensuing remarks, the Applicant has endeavored to respond most properly to each of the points raised by the Office to ensure that the claims are shown to be allowable in all respects. With this in mind, the Applicant respectfully requests that the Office review and allow the claims.

In the Detailed Action, the Office indicated that claims 3 and 4 were directed to patentable subject matter such that they would be allowable if rewritten in independent form including all limitations of the base claim and any intervening. However, the Office did preliminarily find that claims 1, 2, and 5-45 were anticipated by U.S. Patent No. 5,846,586 to Sawyer, that claims 1, 2, 5, 8, 11-13, 15-34, and 36-45 were anticipated by U.S. Patent

No. 3,780,196 to Domecki, and that claims 1, 2, 11-13, and 29-33 were anticipated by U.S. Patent No. 5,431,938 to Kou.

In response, while agreeing with the Office's indication of allowability with regard to claims 3 and 4, the Applicant respectfully submits that, for a plurality of reasons including those summarized below, each of claims 1, 2, and 5-45 patentably define over the cited art. Accordingly, the Office's reconsideration and allowance of the claims are respectfully requested.

As the Office is, of course, aware, a proper anticipation rejection requires that the claimed invention be identically disclosed by the cited reference. In this regard, the Court of Appeals for the Federal Circuit has written that, “[f]or a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.” *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In the present case, neither Sawyer, Domecki, nor Kou can fairly be said to anticipate any of independent claims 1, 26, or 29 because each claim expressly requires in some form that the first and second food products be joined in a coplanar arrangement. For example, claim 1 specifies, among other things, that the “first food product and the second food product are joined in a coplanar arrangement.” Claim 26 more particularly requires that “the mother shrimp and first child product are joined in a coplanar arrangement.” Still further, method claim 29 specifies the joining of “the first food product and the second food product in an effectively coplanar arrangement.” As the term “coplanar” is defined within the present specification and as that term should be interpreted

with regard to the claims, no cited reference can reasonably be said to meet that limitation.

For example, in Applicant's original specification, he wrote:

in this disclosure, the term coplanar is intended to mean *on a single level*. Coplanar is not meant in its literal sense of being disposed in a single plane. Stated alternatively, within this disclosure, the mother and first child shrimp 12 and 14 **are termed coplanar because they are not stacked atop one another**. Instead, they are joined in an edgewise relationship on the same, single level.

(Specification, p. 10, lines 21-25.) (Emphasis supplied.) The claimed coplanar construction advantageously allows the inventive structure to simulate a larger food product most effectively. As Applicant wrote in the original specification, "the single larger shrimp 10 does not merely comprise a larger mass of shrimp meat; Instead, it accurately replicates the shape, appearance, and texture of an actual larger butterflied shrimp. This is in marked opposition to the products resulting from the methods disclosed by the prior art."

(Specification, p. 14, lines 20-23.)

The practices and structures taught by Sawyer, Domecki, and Kou fail to anticipate the claimed coplanar structure. Instead, they characterize the prior art upon which Applicant sought to improve.

For example, while Sawyer indicates that his seafood product "is intended to simulate the appearance of a single large shrimp," the shrimp carcasses are clearly described and shown as being placed one atop the other in a piggy-back arrangement. (Sawyer, col. 3, lines 26-27.) The Applicant respectfully submits that such a disclosure cannot reasonably be said to meet the limitations of Applicant's independent claims.

While also failing to anticipate Applicant's independent claims, Domecki, on the other hand, is entirely different in that it merely describes a structure and method wherein the "meat 10" of a shrimp is removed from the "shell 9" and then "rested upon the top of the shell 9" such that the "shell 9 retains substantially its original shape but is now hollow instead of filled with the meat 10." (Domecki, col. 2, lines 65-67.) Since it teaches an arrangement wherein a volume of shrimp meat is rested atop its own hollowed out shell, the Applicant submits that Domecki fails to anticipate Applicant's amended claims since, among other things, it does not teach or suggest Applicant's claimed coplanar arrangement.

Kou also fails to teach or suggest Applicant's claimed coplanar arrangement such that it too does not anticipate Applicant's independent claims. As Kou's drawings show and as the patent's text describes, under the Kou disclosure, one is taught an arrangement wherein "[a] smaller shrimp is laid onto the first shrimp ... so that the ... superimposed shrimp are approximately aligned one over the other." (Kou, col. 2, lines 42-45.) Such a structure cannot fairly be said to be the "coplanar" as is required by each of Applicant's independent claims.

In light of the foregoing, the Applicant most respectfully submits that neither Sawyer, Domecki, nor Kou can properly be said to anticipate Applicant's independent claims such that those claims should be considered to define patentably over the cited disclosures. Each of claims 2-25, 27, 28, and 30-45 depends from and further limits their allowable